

# **WEST LINN CITY COUNCIL MEETING MINUTES FEBRUARY 23, 2009**

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**Council Present:** Mayor Patti Galle, Council President Jody Carson; Councilor Scott A. Burgess, Councilor Teri Cummings and Councilor John Kovash

**Council Absent:** None

**Staff Present:** Chris Jordan, City Manager; Christine Siegel, Library Director; Shauna Shroyer, Administrative Assistant; Chris Kerr, Interim Planning Director; Peter Spir, Associate Planner; City Attorney Tim Ramis; and Shirley Richardson, Minute Taker

## Call to Order/Pledge of Allegiance

Mayor Galle called the meeting to order at 6:40 p.m. Council President Carson led the flag salute.

## Proclamations, Recognitions and Presentations

Councilor Burgess recognized and welcomed Representative Scott Bruun who is here visiting tonight.

## Community Comments

Kevin Bryck, 18840 Nixon Avenue stated he was here tonight to speak regarding a traffic incident that happened during the December snow storm. He received his first traffic citation since 1992 from a West Linn Police Officer. On December 23, 2008, when the storm had left snow, traffic, frozen rain (ice), and more snow there were extremely hazardous conditions with deep groves on the highway. He was doing his

best to navigate Highway 43 along with everyone else driving a 3,500 front wheel drive station wagon with cable chains on the front and no traction devices on the rear. As he was driving past Chow Mein Lane intersection he hit the moguls and the rear end of his station wagon swerved. A police officer pulled him over to give him a lecture for intentionally causing his car to do that; he explained it was not intentional he was simply driving along. He continued to Wilsonville and had the same swerving incidents on I-205, I-5 and coming back on Highway 43. At the entrance of Mary S. Young Park the car swerved and he received a ticket for careless driving.

Careless driving carries a penalty of suspended license and is given when you overturn a vehicle, hit a tree, run a stop sign and hit another car. It is a very serious charge and carries a fine of \$500.

Mayor Galle asked Mr. Bryck what he wanted Council to do on his behalf. Mr. Bryck stated on Thursday he was here at City Hall for his trial. The Judge took it under advisement; there was no verdict given. Mr. Bryck asked for an additional minute to complete his testimony. Mayor Galle granted the additional time.

Mr. Bryck stated he was totally unprepared to defend the charges that the officer was testifying to. Some of the statements were, he was driving down Highway 43 and throwing up rooster tails of snow and ice with his car, wildly careening. The officer couldn't tell the Judge where he was when he saw him or where the incident took place. The officer stated that he sat out in the snow for 10-12 hours a day during the snow event and no other car slipped out there like his did on the freeway.

Mr. Bryck stated that he drove every day, except Christmas day during the snow event taking his wife to work, to downtown Portland and there were dozens of cars off the side of the road in the ditch. He feels this officer unfairly gave him this citation.

Lynn Fox, President of Hidden Springs Neighborhood Association, stated she is here tonight on her own behalf. As a resident of her neighborhood, it has been very discerning to her to see the distress and distrust that has been created in her community over the Palomino Loop Trail. She attended a Park Advisory Board meeting and heard the Park and Recreation Director tell the members that he had been instructed by the Council to spend \$75,000 on a preliminary park master plan citywide study. She attended the December 29<sup>th</sup> meeting and she doesn't remember this issue being discussed or a decision being made. She wasn't there for the entire meeting but she would like clarification for the neighborhood and all residents who use the Trail.

Ms. Fox stated she feels that city staff is sending mixed messages to the citizens. She has heard staff giving one answer to one group and another answer to another group for the same request. How can a board make informed, intelligent recommendations to Council if they are not given the facts? Different maps are

being used about this same Trail between one neighborhood and another. Some neighborhood associations who have requested maps have not received them.

Ms. Fox asked the City Parks and Recreation Department be given the tools they need to provide the services the citizens need to make informed decisions. The information should be consistent throughout.

Mayor Galle asked if the Hidden Springs Neighborhood Association (NA) is going to make a recommendation and resolution on the Palomino Trail. Ms. Fox stated the Neighborhood Association had two resolutions regarding the Trail; one last June and they felt they had Council consensus on wanting to see the trail installed and completed. The Trail was blocked in some areas and the Neighborhood Association wanted those blocks removed. Later she learned there was another group of people calling the City saying they don't want the Trail; they want it to remain private. She was given skewed information and based on that information the Hidden Springs NA had a presentation at the June meeting and voted to support opening neighborhood trails, completing them, and removing the blockages.

Consent Agenda

Agenda Bill 09-02-23A                      Approval of Council Meeting Minutes of January 12, 2009

Agenda Bill 09-02-23B                      Approval of Council Meeting Minutes of January 26, 2009

Agenda Bill 09-02-23C                      Approval of Council Meeting Minutes of February 2, 2009

Agenda Bill 09-02-23E                      Oregon Water/Wastewater Agency Response Network (ORWARN)

**Council President Carson moved to approve Agenda Bill 09-02-23C, Approval of Council Meeting Minutes of February 2, 2009 and Agenda Bill 09-02-23E, Oregon Water/Wastewater Agency Response Network on the Consent Agenda. Councilor Cummings seconded the motion.**

**Ayes: Burgess, Cummings, Carson, Kovash, Galle**

**Nays: None**

**The motion carried 5-0.**

Report from the City Manager -- None

Business from the City Council -- None

Business Meeting

1. Agenda Bill 09-02-23D Ordinance No. 1586 – Municipal Code Amendment – Library Advisory Board

Mayor Galle opened discussion on the Municipal Code Amendment for the Library Advisory Board. She asked for a staff report.

#### Staff Introduction

Christine Siegel, Library Director stated the purpose of this amendment is to amend Section 2.805(g) relating to the Library Advisory Board for standardizing language and responsibilities consistent with other Citizens Advisory Boards. The recommended changes are consistent with ORS language related to Library Boards.

The current Library Board reviewed the code and is recommending the following changes:

1. Appointment and Term changed to Creation; Appointments
2. Terms of Office added
3. Duties changed to Responsibility
  - Determining library needs and recommending programs to meet identified needs
  - Making recommendations for the annual library budget
  - Advising on rules and policies for the governance of the library
  - Making recommendations to the City Council as requested by the City Council
  - Such other activities a the City Council may assign

This issue was reviewed in a Council worksession and a change was requesting concerning the language to Section 3(C) removing the word “governance.” This change has been added to the revised ordinance before Council tonight. Staff is asking that Council adopt the ordinance as proposed.

There were no questions of staff from the Council on this issue.

Public Testimony -- None

**On the first reading, by title only, Council President Carson moved to adopt Ordinance No. 1586, An Ordinance Amending West Linn Municipal Code Section 2.805(g) Relating to the Library Board per Agenda Bill 09-02-23D. Councilor Burgess seconded the motion.**

**Ayes: Cummings, Kovash, Carson, Burgess, Galle**

**Nays: None**

**The motion carried 5-0.**

Councilor Burgess welcomed back Library Director Christine Siegel and asked if the Big Reader Program was still being used at the library. Ms. Siegel stated the Big Reader Program was still going on as part of the 150 Year Centennial Celebration.

**Council President Carson read the Ordinance by title only for the second time and moved to adopt Ordinance No. 1586, An Ordinance Amending West Linn Municipal Code Section 2.805(g) Relating to the Library Board per Agenda Bill 09-02-23D. Councilor Burgess seconded the motion.**

**Ayes: Kovash, Carson, Burgess, Cummings, Galle**

**Nays: None**

**The motion carried 5-0.**

2. Agenda Bill 09-02-23F

Ordinance No. 1585 – Metro Business  
Recycling Requirements

Mayor Galle opened the meeting to discussion of the Metro business recycling requirements. She asked for a staff report.

#### Staff Report

Gene Green, Public Works Director introduced Shauna Shroyer, Administrative Assistant who has put a lot of work in the review and implementation of this project. This is a metro program that requires local governments to adopt ordinances to require businesses to recycle all types of recyclable paper and certain containers such as plastic bottles, aluminum cans and glass.

This is the second component of the business recycling requirements. 60 days ago the Public Works Department came before Council with a resolution of the residential requirements for recycling. There is a requirement also through Metro to work with businesses to make sure they comply with sustainability and recycling.

Local governments are required by Metro to adopt local ordinances to implement the Business Recycling Requirement by February 27, 2009. This ordinance will amend the West Linn city code 4.519(1) to reflect the new changes.

At Council's worksession the question came up regarding enforcement. There are three options that most cities are currently considering: working with Metro to further education and compliance. There are grants available to help with compliance and education. Mr. Green stated he feels the Department can do the education themselves, working with businesses and West Linn Refuse to insure compliance. Some cities are working with Clackamas County to help with education and enforcement.

West Linn must decide who will handle the enforcement portion of the ordinance by March 15, 2009.

West Linn has a strong commitment to recycling and was the first city in the metro area to use roll carts for solid waste, recycling, and yard debris. This new requirement will give West Linn the opportunity to reaffirm its commitment to reducing the impact of the community on the environment.

Councilor Cummings stated she feels the curbside recycling program is great. It would be good to see businesses recognized and rewarded for recycling. She suggested staff find out what would be most encouraging (incentives) to businesses in the way of performance measures that they can demonstrate they are as close as possible to zero waste.

Councilor Burgess asked if West Linn took on the responsibility of education and enforcement would that mean there would be no intergovernmental agreement with Metro. Ms. Shroyer stated at this point, Metro is only asking that the ordinance be adopted by March 15, 2009.

Councilor Burgess asked for confirmation that Metro will provide funding for four years if the City takes on the educational portion of the Requirements. Ms. Shroyer said yes.

Councilor Kovash noted that tonight Council is being asked to adopt the ordinance complying with the requirement by Metro to have a business recycling program. The selection of the enforcement method does not have to be decided tonight; however, three options for enforcement must be included in the ordinance.

Councilor Cummings reported the Sustainability Board will be meeting March 10<sup>th</sup> and she would like to get input from them on their recommendations about staff's choices and suggestions for incentives for compliance.

Ms. Shroyer stated Metro provided the model ordinance from which staff based their proposed ordinance. Metro's wording did not include making a selection of how the city was going to enforce the ordinance.

Chris Jordan, City Manager stated there are options for compliance. If an intergovernmental agreement is required, the decision will come back to Council for approval. After the ordinance is adopted, staff will review ways that work best for the community to enforce the ordinance.

Councilor Carson asked that staff review enforcement options and talk with the local businesses to get a sense of their needs and how it will work best with the City. If there is no requirement that enforcement to be defined at this time, she is comfortable with going ahead and passing this ordinance so the City will be in compliance.

Councilor Burgess stated he is supportive of the ordinance and program.

There was no public comment on this issue.

**On the first reading, by title only, Councilor Carson moved to adopt Ordinance 1585, An Ordinance Amending Chapter Four of the West Linn Code by Adding a New Section Relating to Business Recycling Requirement per Agenda Bill 09-02-23F. Councilor Burgess seconded the motion.**

**Ayes: Carson, Burgess, Cummings, Kovash, Galle**

**Nays: None**

**The motion carried 5-0.**

**Councilor Burgess read the Ordinance by title only for the second time and moved to approve Ordinance No. 1585, An Ordinance Amending Chapter Four of the West Linn Code by Adding a New Section Relating to Business Recycling Requirement per Agenda Bill 09-02-23F. Council President Carson seconded the motion.**

**Ayes: Burgess, Cummings, Carson, Kovash, Galle**

**Nays: None**

**The motion carried 5-0.**

3.      Agenda Bill 09-02-23I      Resolution No. 09-04 – Economic Development Task Force

Mayor Galle opened discussion on the Economic Development Task Force. She asked for a staff report.

#### Staff Introduction

Chris Jordan, City Manager reported at Council's February 2, 2009 worksession staff was directed to prepare a resolution creating an Economic Development Task Force. This Task Force will be made up of seven members appointed by the Mayor, approved by Council, with the responsibilities of making recommendations to Council on:

- The City's role in economic development
- Enhancement in business prosperity through various means such as physical improvements to the City's commercial districts
- Enhancement of business prosperity through possible community development and Municipal Code amendments
- Planning and supporting events that attract local customers from the community as well as visitors to West Linn
- Other areas the Task Force believes would be in keeping with the objectives of the resolution

Council will be looking to the Task Force to provide recommendations on funding methods such as local business districts, The Main Street Program, and Urban Renewal Districts. The Task Force will take into account such current City documents as Sustainable West Linn Strategic Plan, Imagine West Linn and the West Linn Comprehensive Plan.

The Task Force will provide its report and recommendations to the Council before the end of 2009. Staff is asking Council to approve Resolution No. 09-04.

#### Questions of Staff

Councilor Burgess asked if the Task Force is required to plan and provide events or come back to the Council with a recommendation to determine what the City's role should be. Mr. Jordan stated the function of this Task Force is to focus on what the City's role should be to help plan and provide events.

There was no public comment on this issue.

**Councilor Burgess moved to approve Resolution No. 09-04, A Resolution of the West Linn city Council Creating an Economic Development Task Force per Agenda Bill 09-02-23I. Councilor Cummings seconded the motion.**

Councilor Cummings asked the motion maker if he would consider an amendment to the motion by including "The League of West Linn Neighborhoods" along with the Chamber of Commerce.

Mayor Galle explained the Task Force came about when the Council was discussing ways for the City and communities to connect better with the local businesses and the importance of shopping local. She feels this will be a valuable tool of education, on how to shop, where to shop and why you shouldn't go out of town to shop. This will also educate citizens on what is required for businesses in West Linn to provide shopping for residents locally.

Councilor Carson stated it is important for this Task Force to not only talk to the League but to Neighborhood Associations, Rotary and other community groups. She suggested that a more comprehensive language be added, "...the Task Force will consider the recommendations from the Sustainable Strategic Plan and also interact with community groups."

Section Five addresses the League of Neighborhoods as it talks about other organizations as a part of its due diligence in fulfilling its mission. There are many more organizations that could be listed in Section Five. It is important to her to put this language in the resolution whether it is listed as individual organizations or leave as is and the Task Force coordinate and solicit information from other organizations.



Mayor Galle suggested leaving the language the way it is because it does address other organizations and gives clear instruction to the Task Force that the League, the Neighborhood Associations, and others mentioned would be an expectation of Council so it doesn't get hung up in the actual resolution itself. Council can direct the Task Force to encourage contact and interaction with community groups and report back their responses.

Councilor Carson noted that Section Five states, "The Task Force will solicit input from the business community, the West Linn Chamber of Commerce, and other organizations." She feels that the League of West Linn Neighborhood is an organization that helps coordinate the neighborhoods. She would like to see a stronger relationship between the businesses and the neighborhoods.

**Councilor Cummings moved to amend the motion to include the language of the League of West Linn Neighborhoods. Councilor Kovash seconded the motion.**

**Ayes: Kovash, Cummings, Galle**

**Nays: Carson, Burgess**

**The motion carried 3-0.**

**Poll on the main motion:**

**Ayes: Cummings, Carson, Kovash, Burgess, Galle**

**Nays: None**

**The motion carried 5-0.**

4. Agenda Bill 09-02-23G

Public Hearing – Resolution No. 09-03 –  
Annexation Step 2 – Erickson Property

Mayor Galle opened the public hearing on the Step 2 Annexation hearing on a request by Palmer Erickson Co-trustee and the West Linn/Wilsonville School District to annex 21 acres at 1025 Rosemont Road and 20800 Hidden Springs Road to the City of West Linn.

This step-two hearing is on the issue of whether the Council should submit the question of annexation of this property to the voters. The land use decision was already made on January 26, 2009 at the conclusion of the step-one process. The approval criteria for this application are in West Linn Municipal Code Section 2.900 et. Seq.

Mayor Galle asked if any member of the City Council wished to abstain. There were none.

Mayor Galle explained the hearing format and asked for the staff report.

Staff Introduction

Chris Kerr, Interim Planning Director reported the step-one hearing was held January 26, 2009 and at that time Council recommended that the request move forward. With a specific resolution should the property be annexed, that the site will have an R-10 zoning designation.

The vote will determine whether or not to place this item on the ballot for city-wide vote. If this step-two annexation is approved, a date when this will be put on the ballot will have to be decided. Staff is recommending a spring election date of May 19, 2009.

There are no specific criteria within the Municipal Code about how the decision is made. The decision may be based on any consideration deemed relevant by this Council.

Mr. Kerr pointed out the subject site and surrounding areas on a site map. It has a Comprehensive Plan designation of LDR (low-density residential). The zoning designation if annexed would be R-10. Calculations were done to come up with an estimated maximum intensity under the permitted use for the zoning district. 46 dwelling units could be constructed on this site under the R-10 designation.

The annexation would include a sliver of the Rosemont Road right-of-way. The single-family home located at 1045 Rosemont Road is not included in this annexation request and will remain in unincorporated Clackamas County.

Trillium Creek runs through the property from north to south and then turns hard to the east. There are two jurisdictional wetland identified on the site. There are a lot of significant trees on the site, within and outside the riparian corridor. To develop this site with this amount of environmental constraints leaves a certain amount of property undevelopable.

Dennis Wright, Engineering Manager prepared a memo dated February 23, 2009 summarizes capacity and water pressure that is available to accommodate either a school site or if developed residential.

An ordinance was passed years ago saying trees cannot be cut down, wetlands cannot be filled in, etc. prior to annexation and expect to be annexed into the City without penalties. Mr. Kerr stated he walked the site with the arborist and there was no evidence of disturbance or damage of the environment.

Staff suggested adoption of the proposed resolution.

#### Questions of Staff from Council

Councilor Burgess asked if this site is built tomorrow can it be served with the water system as it exists today. Mr. Kerr stated that the existing water system can accommodate the proposed development whether it is a school site or a residential site.

### Applicant Presentation

Tim Woodley, Operations Director for the School District stated this annexation application is for the purpose of building a new primary school. The School District has had a long-range planning committee for many years as well as a long-range plan adopted by the board and revised on a regular basis throughout its recent history. Capacity versus enrollment was done in the winter of 2007.

The middle school capacity is approaching full. The 2002 bond provided more space at West Linn and Wilsonville High Schools. This bond is about enrollment for the primary schools. There are portables at a variety of the schools right now; there are full portables at Stafford and Willamette. Enrollment projections in 2007 showed a 2.1% increase in Wilsonville and a .5% increase in West Linn. There are subdivisions where 5-15 houses could go in. There is quite a bit of activity in West Linn at the time they were putting this information together. These projections were taken out to the year 2014 for primary schools. There are five primary schools in West Linn. In 2006 there were 2185 spots for kids to be in school and 2303 students attending schools. The School District's target is to design, build and open in 2011.

The long-range plan lays out a preferred size of 500 for a primary school located in the neighborhoods that it serves. The district has had a tradition of building a starter primary school that has all the core facilities for a 500 student school. The proposal is to build a 300 student primary school on the Erickson site with a build out to 500 into the future.

Councilor Burgess noted during the step-one hearing Council requested a letter be sent related to a Leed standard and asked if there was discussion since the last meeting in terms of their plans for construction of the school. Mr. Woodley stated the District has discussed the issue, had presentations from Leed certified experts, and have concluded that Leed silver would probably be the goal.

Mayor Galle asked if there will be remodeling and adding on to Sunset School. Mr. Woodley stated there are no additions to Sunset Primary School proposed.

Mayor Galle asked if the District reviewed the idea of adding on to the existing schools as opposed to building a new school. Mr. Woodley stated the issue has been reviewed and they are proposing an addition at Cedar Oak Park School. With the 2002 bond a new library was built at Willamette. Neighborhood schools in West Linn serve the neighborhoods and are of a size they do not want to make larger. Willamette is constrained by its site and is way over capacity. Bolton is very

constrained as Hammerle Park is right up to the front door. There will be quite a bit of remodeling at Bolton. A new library and a multi-purpose classroom will be added at Cedar Oak Park. Stafford will also receive a new library and some parking lot improvements.

Mayor Galle asked if the children from Willamette will go to this new school. Mr. Woodley stated that because of the new school at the Erickson site, it will cause re-boundary of all the schools.

Mayor Galle expressed concern that in the case of schools, there are kids going on to high school and kids coming into Kindergarten. When these projections are being made is it taken into consideration that there are whole classes of children moving out and moving up. She doesn't see the stack of children that will be waiting. Mr. Woodley stated that community growth from infill will account for the additional students.

Mayor Galle stated she has read articles that outline school closures, decline in enrollment, laying off of teachers, 4-day school weeks, and dramatic affects caused by the economy and the lack of funds. She asked Mr. Woodley to comment on these problems that the schools are facing. Mr. Woodley stated this is the budget cycle time for the School District and they are just starting their process. There is a citizen task force that addresses the budget. The State provides projections and there will be discussions regarding projections for next year and the year after that.

Mayor Galle voiced concern that West Linn may end up with a school that cannot be filled or the state will not help fund. She feels it is only fair that before this decision is made someone from the School District should answer these questions. In order for the Council to make a prudent decision on behalf of the taxpayers, someone needs to address how this will affect the City. If the citizen's vote to annex this property and the School District come into a financial situation where the school doesn't work based on school projections and other data, the City ends up with a piece of property that is annexed in and will have to deal with development.

Mr. Woodley stated he would be out of place to speak for the School Board Superintendent. The School District does have the funds to build a school.

Mayor Galle stated she did not feel comfortable making a decision on this issue until she gets a true picture of how the schools will be affected. West Linn is not a cheap place to live and when people are losing their jobs, there may be more people leaving than coming into West Linn.

Councilor Kovash asked if the projections for the school included emptying the current portables or would they remain. Mr. Woodley stated the portables are leased and would be emptied.

Councilor Kovash noted the bonding and funding of the school is the purview of the legislature and school district. He feels the question before Council is the annexation and whether the School District meets the criteria for annexation.

Councilor Burgess stated there were discussions when the bond measure was put together and the decision was to do nothing at Sunset right now. He asked if there have been activity to talk about Sunset. Mr. Jordan stated a meeting is scheduled the first week in April to discuss Sunset. Mr. Woodley stated the bond did provide money to engage the community in a broad planning exercise. This will be done but has not started the process.

Councilor Cummings asked for the population of the students at Stafford Grade School. Mr. Woodley stated it has a capacity of 520 and last year there were 572 students. The projection is that the number of students will go up. The model is 500 students for new schools. There is a major concern on this site for water and sewer issues. There is a septic system that takes up a large portion of the property.

Athey Creek is also in this area and the last bond placed the district operation center on the same piece of property. That has constrained the whole site as well. West Linn does not have a lot of flat ground for playing fields and Athey/Stafford side has become a premier athletic venue for all kinds of sports. The value of this ground is high.

Councilor Cummings read a statement (response from the schools) from an article dated February 13, 2006. Agenda Bill 06-02-06, February 13, 2006, part of the record as requested, which states on circle page 16, based on factors developed by the West Linn-Wilsonville School District, “the West Linn-Wilsonville School District projects the need for two new primary schools to serve growth anticipated within the current urban growth boundaries of the two cities, plus additional rural levels of development in Clackamas County. Both new schools are projected to be in Wilsonville, because the district foresees the majority of future population growth there. The District views West Linn as a “mature” community, which by itself would not trigger the need for significant additional school capacity.”

Mayor Galle noted that everything that goes on in West Linn affects the City. What ever happens with this school may be District business but it does affect all of the citizens of West Linn. She cannot make a decision based on the fact the bond was passed and this was the School District’s decision to make. There is a conflict with the document that clearly states there is no intention of building a school. Some times things can be projected ten years out, however, this document was written three years ago and the decision was made that the school is not really needed.

Mayor Galle asked what is negative about the portables; what is the downside to having these buildings when they are needed. Mr. Woodley stated when they are needed and they work great; they provide the extra classroom space. It is not a

permanent space. These structures are leased and present a drain on the general fund every month. Putting them in and taking them out has a certain expense. Teachers will tell you that disconnecting kids from the main school unit makes it less than the optimal experience that is hoped for all the kids. They are not a good long term solution for housing kids.

Councilor Kovash stated that when the portables were discussed at the Planning Commission it was found that the portables took up a big part of the parking and playground area.

#### Testimony in Support

Alice Richmond, 3939 Parker Road stated as long as there are couples, there will be more children. The elementary school goes into the primary school and the primary schools go into the high school. There are kindergarteners and preschoolers which add to the increase in children. The portables take away space for the kids to have healthy play activities. This is the second stage of annexation. The site should be annexed and leave it to the citizens to vote; it will be the taxpayers money that will be supporting this school. If it is not annexed it will be sold and housing units will go up.

Gary Hitesman, 2188 Clubhouse Drive stated he is a big proponent of the annexation. The report does not play up the attributes and positive aspects this annexation would bring to West Linn whether it is a school or whether it is housing. He is concerned that when the vote comes up in May there will be a full disclosure of the positive and potential impacts of the site. When he reads the report it does not support his desire to see the property annexed.

Mr. Hitesman stated he is concerned about the addition of the Rosemont Road right of way tagged onto the school annexation. In these days of limited resources and the importance of putting a school or homes in the area, he doesn't see where the road adds any value to the property. This may be a way of opening other issues in regards to Stafford Basin. He would like to see this annexation be a discussion about how it benefits the City of West Linn and not how it may be setting up the way for the development of Stafford Basin. The issue of Rosemont Road should be discussed; however, it should be separate from the annexation. He is in support of a school or housing.

#### Testimony in Opposition

Lynn Fox, P.O. Box 236 Marylhurst, OR stated she is opposed to this proposal because she does not feel the application is complete. Her Neighborhood Association is the one that is impacted and should have been notified. They were not notified about the October 16, 2008 pre-application meeting. There was not a significant meeting with the School District; there was one brief meeting with Dr. Wohl and Mr. Woodley. At that meeting, Dr. Wohl was asked what level of Leeds

would be used in the school and he said they would use no Leeds but they would aspire to it. Mr. Woodley tonight stated they would use gold Leeds. She would like to know what changes were discussed between that time and now.

Ms. Fox stated there is a traffic regarding Rosemont and Hidden Springs. The citizens are concerned about the community as a whole. When they realize there is a urban reserve issue that has not been resolved, they are concerned how this school will impact or why the school is required when the population is only growing at .5% per year and a document from the School District saying West Linn is a mature community and don't need any more schools.

Ms. Fox asked Council to consider remanding this issue back to the step one process and have proper Neighborhood Association notice and participation.

Karie Oaks, 1125 Marylhurst Drive stated she is not opposed to good schools and plenty of room for small classes. She is concerned about the process; the municipal codes and community development codes are in place to provide a good process to produce a good project.

Ms. Oaks stated she is also concerned about the staff analysis regarding the impacts if this property were developed as residential. The School District wants to put a school on the site, but only analyzed it for residential use. The staff report indicates there could be a maximum of 45 homes however; theoretically 91 homes could be placed on the site at R-10 zoning. This site has a significant water resource area on it and even though staff says there is protection by the code there are examples of giving hardships and variances to allow more development on these lands.

She asked the City to look at some of the decisions made by the Planning Commission made recently regarding these variances (Holiday Inn, Hood Street development, etc.) to get a true picture of how this land could potentially developed. She would like to be certain a school could actually be placed there.

Section 2.9 of the Municipal Code (2.920, Annexation, #2(E)), states "...the subject area has been included within each of the adopted city facility master plans and capital improvement plans and the subject areas planed for all needed city infrastructure." The Facility Master Plan does not show housing or a school going in on this site. The open space designation (Goal 5) has removed this property from its list but does not provide a facility assessment or other use for it. The Economic Impacts does not assess the probably impacts and cost of either a school going in there or 91 homes going in. The Master Plan, including the Transportation Plan shows impacts to increase to traffic flow or parking, whether it is a school or home units. She asked Council to re-consider and review Section 2.9 of the Municipal Code.

Ms. Oaks asked for an additional minute to complete her testimony. Mayor Galle permitted the additional time.

Ms. Oaks stated that she too was concerned about the inclusion of Rosemont Road right of way as part of this annexation. How does this roadway relate to the school? If this is the final section to complete total annexation of Rosemont, will this make it easier to open up Stafford Basin.

When she researched this annexation on line she could not find any narrative from the applicant as required in the step one process. What she did find was the staff reports. Section 81.040, The Petition (C-2) is a narrative that addresses the approval criteria set forth in the City code Section .920 and a narrative is required by the petitioner (School District). This narrative was not found online. If such narrative was filed, it would have addressed some of the questions that have come out tonight.

Bob Thomas, 2573 Pimlico Drive noted step two is a political decision. He is against the referral of this annexation to the voters. He does not feel the School District has supplied sufficient information and there is no surety that there will be a school on this site. If this land is sold for development, he recommends that zoning be higher than R15 to discourage the sale of the property.

Mr. Thomas stated he does not feel the School District has any serious planning, architectural design, or a preliminary plan for what the school will be like. Until they can show they have done so this annexation should not go forward. This issue would not be before the Council if the School Board had told the citizens that Measure 3-308 (bond measure) would increase taxes. The Board claimed this measure will not increase taxes. This measure just barely squeaked by as did the two previous bond measures. The taxes associated with each of the measures increase annually and determined by the applicable tax rate per thousand dollars of a property's assessed evaluation and a 3% annual increase of a property's assessed evaluation.

He feels the proper way for the School District to eventually put a school on this site, and in the meantime leave the property alone, is to engage in a delayed annexation. At the time the School District can provide assurance that a school will be built, this can be put before the voters. This is extremely premature; the School District has not done the work needed.

Councilor Cummings asked for clarification of the term "delayed annexation." Mr. Thomas stated at one time during the Tanner Basin development, the annexation did not occur until a future time when certain criteria have been met.

Mr. Thomas stated the new Water Master Plan says there are 3,000/gallons a minute for 3/hours (540,000/gallons) required for every zone in the City. There is no such storage in the Rosemont zone where this school will go. There are only 400,000 and



when you assume a fire starts the reservoir is only three-fourths full. If the City is going along with the new Water Master Plan and have not achieved the 540,000 gallons and the need for emergency storage, there should be a moratorium on growth in this town.

Additional Staff Comments - None.

Mayor Galle asked if the applicant's narrative was posted online. Mr. Kerr stated that narrative was submitted and included in the staff report for the step one annexation hearing. This narrative was put on line 60 days ago; all notice and code requirements were met.

Mayor Galle asked if there is language that mandates applicants to specifically follow Leed requirements. Mr. Kerr stated at this time only City buildings are subject to silver Leed requirement. Mr. Jordan stated that Leeds are voluntary and it is a decision for the voters to decide whether or not they agree that this is a good project. There is nothing the City can do to hold an applicant accountable for Leed requirements.

Mayor Galle asked for clarification of a Goal 5 Resource. Mr. Kerr stated there is more than one Goal 5 Resource. There is a standard which indicates once a property is annexed into the City it is subject to the City development review and all environmental standards and regulations (wetlands, riparian, trees, steep slope requirement, etc.).

Tim Ramis, City Counsel, stated the first step of Goal 5 is to develop an inventory of Goal 5 Resources. Once that inventory is mapped it is up to the Council to decide what level of protection to apply. That is the protection program. Once the program is decided, it is reviewed by the State and if approved is part of the City code. At that point, the protection program is applied whenever an application is made. The degree of protection is in the hands of Council.

Council President Carson asked staff for clarification on why the section of Rosemont Road right of way was included in this annexation application. Mr. Kerr stated over the years whenever the City annexes a property; they annex out to the center line of the roadway or get the remainder of the right of way that is out in front. A few years ago the City went through a larger annexation where they picked up portions of County right of way that was in the City borders. This is the only portion of Rosemont Road that is not included in the City right of way.

Council President Carson asked staff to comment on the possibility of 45 homes versus 91 homes. Mr. Kerr stated in this case, because this particular property has such a significantly amount of environmentally constrained land, the code is specific as to how the density is calculated. There is an exact formula in the PUD that is used to determine the net density. Staff subtracted out the portions that are

permitted under the PUD and came out with the estimate of 46 dwelling units. He pointed out the environmental constraints on a property map.

Councilor Cummings asked staff to clarify if the taxes for the School District get higher once annexed. Mr. Jordan stated the School District does not pay taxes, in this case it is tax exempt property (publically owned). If this property were privately owned, the owner would have to pay City taxes as well as County taxes.

Councilor Cummings asked for staff to comment on how the tax rate is impacted by bonds. Mr. Jordan stated that the School District sells bonds to build the schools. As soon as the bonds are sold, in the next fiscal year, citizens/property owners will be assessed for the debt service on the bonds.

Applicant's Rebuttal -- None.

Mayor Galle closed the public testimony portion of the hearing.

**Councilor Burgess moved to approve Resolution No. 09-03, A Resolution of the West Linn City Council, Submitting a Proposed Annexation Requiring Voter Approval to the Registered Voters of the City for Their Approval at the May 19, 2009 Election per Agenda Bill 09-02-23H. Council President Carson seconded the motion.**

Councilor Burgess stated this annexation has been proposed, it is in the Comprehensive Plan to be annexed into the City. What is before the Council tonight is annexation, not whether a school should be built on this property or the design of that proposed school? There are a lot of benefits to West Linn that this property be developed under City codes. He supported this annexation in step one and supports it now. The number of homes that could be developed on this property is not what is before the Council; staff calculated in consideration of the constraints on the property and this Council has proposed the site be zoned R-10. He was surprised this section of Rosemont Road was not in the City; however, he feels it makes sense to bring the road into the City. He might propose as a separate amendment having to do with what is put in the voter's pamphlet.

Councilor Carson stated she supports the annexation. She is concerned with properties like this that are not under the protection of the city's codes. City codes are more protective in terms of water resource areas, trees, and environmental concerns. Whether a school or houses are built on this site, it is critical to get the City protections on this property. The school has been discussed for years; she has been involved in different long-range planning groups that have addressed this school issue. There have been concerns raised by neighbors to schools where there are portables are place about how long the units will be utilized and when there will be adequate school facilities for the children. If this moves forward and if there is a

school built, she would like to see Leeds certification and address those issues to make sure the building footprint really does protect the water resource areas.

Mayor Galle voiced concerned about an attitude of bringing property in because it has been planned to be brought in, yet there is not much support for the need to be brought in. Just because you plan for something, doesn't mean that it is done. The State is cutting \$800 million and \$336 million of that is for schools. In November it was projected there was not \$500 million to maintain services until 2011. This current economic situation will not get fixed in a very short period of time. She appreciates that the City wants to have this property; however, it is prudent to maybe wait and see how things work out economically. She would feel much better waiting until after June when Metro made its urban/rural designations. The citizens of West Linn have made it clear that they would like to keep that area rural, which would mean there would be development that would cause filling this school. She would feel more comfortable making the decision after that time.

Based on the economics, the inability to answer funding questions, and the fact the staff report written on schools indicated there was no need any more schools and can manage at this time. Some times that is what needs to be done.

Councilor Cummings stated she questions whether a school really will be built on this property. Population figures from Metro show indicate the average age in West Linn in 2007 was 40 and in Lake Oswego its 43/45. Compared to a lot of other communities West Linn is significantly older population. She suspects they are heading in a direction where local growth in their schools is not the same as in some other areas. The building rate has slowed significantly and she is not convinced that there is a need for additional land at this time for more building. She questions whether the City is going along with the idea of a major expansion in Stafford. She does not want to give mixed messages because the City is not in support of expansion of the Stafford area. She too feels this decision might be best made six to nine months from now.

Councilor Kovash noted the School Board has been working on the issue of adequate schools for a long time. They worked hard getting the bond measure passed and he appreciates all the work that has been done. The economic climate is such that perhaps now the building can be constructed at a savings that would not be available at another time. He would not want to put that off. Because of the overcrowding in some of the schools, he feels this would be a plus for the City.

Councilor Burgess stated the issue of economics has been raised; everyone is aware of the situation this country and world is in. He would rely on the School District to deal with those issues as West Linn deals with the issues they have under their control. The \$855 million short in this biennium and the \$3 billion short in the next biennium are real issues affecting schools. The State pays most of the bills for schools. The issue before Council tonight is annexation of a piece of property. The

Stafford area is not an issue; the School District has indicated they have done their projections and said what they need in this community. If the School District was considering Stafford, they would be adding high schools, etc. The February 2006 agenda referred to no need for an additional school. The data tonight provided by the School District indicated over-capacity both at Stafford and Willamette. The Bond measure was put before the voters and it was approved to build a school at this site.

Tonight before the Council is not the building of a school, but annexing a piece of property. Portables are being put in that compromise education and violate City codes. It is the responsibility of the School District to determine when the school is to be built. He is conscience of the economic situations. From a construction standpoint the School District might be in good shape; however, operating and filling the school is another issue.

**Poll on the motion:**

**Ayes: Kovash, Burgess, Carson**

**Nays: Cummings, Galle**

**The motion carried 3-2.**

**Councilor Burgess moved to add language in the explanatory statement to indicate the City has requested the School District build to at least leed standards. Councilor Carson seconded the motion.**

Mr. Jordan reported he gave code language to the City Attorney to review the code for language that can be a part of the explanatory statement. Mr. Ramis stated he would feel more comfortable if the resolution said, "...to the extent allowable under City ordinance." He would like to be allowed time to come up with appropriate language.

Mayor Galle stated it would be nice to have Leed language; however, she is concerned putting in what this community really wants and yet if it is another subject, that community's opinion isn't as valuable.

Councilor Cummings stated she feels it would be in the School District's best interest to address this issue; if and when they want to build a school they make intentions about the Leed standard clear. She appreciates the land issue being brought up; she suggest inserting language, "that could serve between 300-500 students in the section that talks about "...intend to build a primary elementary school..." or something about the capacity or size of the school considered for this site.

**Councilor Cummings moved to amend the motion to include language pertaining to the potential capacity of the school. Councilor Carson seconded the motion,**

**Ayes: Cummings, Carson, Burgess, Galle**

**Nays: Kovash**

**The motion to amend carried 4-1.**

Councilor Burgess stated he is comfortable with deferring to Council and the City Manager if the language is compatible with the City codes and how the language is written.

Chris Jordan clarified the proposed motion that subject to the city attorney reviewing and making sure it is an appropriate thing, language along the lines, “The City of West Linn has encouraged the School District to build schools that meet at least LEED silver certification.”

**Poll on the motion to have the city attorney and city manager review the City codes to draft and add language in the explanatory statement to indicate the City has encouraged the School District build schools that meet silver certification and language indicating the potential capacity of the school.**

**Ayes: Burgess, Cummings, Carson, Kovash, Galle**

**Nays: None**

**The motion carried 5-0.**

Recess was taken at 9:20 p.m. and the meeting reconvened at 9:32 p.m.

5. Agenda Bill 09-02-23H Public hearing – Appeal of historic Review Board For Buck Street Demolition

Mayor Galle called to order the public hearing to consider an appeal of the conditions of approval related to the Clackamas County Historic Review Board’s decision to approve a demolition permit for 1850 SW Buck Street at 9:33 p.m. The appeal has been filed by the applicant, Angelo Planning Group. The hearing is de novo, you need not have testified previously in order to participate tonight.

The hearing was originally scheduled for January 26 2009; however, on January 23, 2009 staff received a letter from the applicant requesting a thirty day continuance of this hearing. Along with the request for continuance, the applicant voluntarily offered to extend the 120 day clock by 30 days. Based upon this request, the Council continued the hearing to Monday, February 23, 2009.

Chris Jordan, City Manager, explained the applicable criteria are found in the Community Development Code. Tualatin Valley Fire and Rescue (TVF&R) has made application to build a new fire station to replace the Bolton fire station. The applications for design review and conditional use permits were approved by the Planning Commission and are final. Since the site of the proposed station is occupied by a historic landmark house, the Greaves House, TVF&R is required to obtain a demolition permit through the Clackamas County Historic Review Board (HRB). A hearing was held by the HRB on November 20, 2008 where it approves

the demolition and imposed condition of approvals. The demolition approval was granted under the provisions of West Linn Community Development Code Section 26.080.

Mayor Galle explained the hearing conduct. She asked if any member of Council visited the site. Councilor Burgess stated he visited the site and is aware of the property. He was involved in the original purchase of this site and does not feel this will impair his ability to vote on this issue. Councilor Kovash stated he has walked the perimeter of the site. Councilors Carson and Cummings stated they too visited the site. Mayor Galle stated she has not visited the site.

Mayor Galle asked if there were any conflicts of interest or ex-parte contacts to declare. Council President Carson stated she has had discussions over the last several months regarding this property and she recused herself from this hearing because of her ongoing involvement in the historic preservation efforts.

Tim Ramis stated that the City's Attorney's office will not participate in this hearing in order to avoid any potential for conflict or any appearance of unfairness.

Mayor Galle asked if there was anyone in the audience who wished to make a challenge to any Council member's impartiality or ability to participate in this decision. Mr. Awalt, 1847 5<sup>th</sup> Avenue stated the Council has been working a long time on the fire station issue. He is concerned about their ability to take off that hat and render a fair decision. This historic building has nothing to do with the fire station; it is about one house and whether it is properly mitigated to the state standards. He questions whether the council members can make that switch.

Councilor Burgess stated he was involved in the purchase of this property originally for the expansion of the fire/police station. He has been involved in the comprehensive planning that designates these areas and concerns in terms of historic property. He was involved in the relocation and rehabilitation of a historic house related to an Oregon Department of Transportation (ODOT) project in the area. He has been on both sides of the fence. He believes the City needs to preserve historic heritage and there are issues of public safety. He is here to hear the arguments as it relates to his understanding what to do with the building under the Codes of this City and State.

Mr. Awalt stated that one of the common problems that happen in hearings of this type is that people will get on the wrong side of the issue accidentally and he wanted to make sure there is a clear line.

Mayor Galle asked if there were any objections to the Council's jurisdiction to consider this matter. There were none.

#### Staff Introduction

Peter Spir, Associate Planner, reported this is an appeal of the condition of approval #3, “this demolition application (DR-0-10) will be returned to the HRB for a public hearing to decide if a demolition permit shall be issued and under what conditions if condition of approval 1 is not met.” This condition contradicted the original approval decision. The Historic Review Board in the course of their public hearing took testimony, reviewed the TVF&R findings on A (12) through A (14) to be compelling and voted unanimous in favor of the demolition.

This condition left the TVF&R in an awkward position; they had approval and yet they didn’t have it. Staff sees no need to go through the process and return back to that body for approval. There are ways the condition of approval could have been crafted that would have accomplished the same thing.

The Historic Review Board was uncomfortable with the idea of approving demolitions. The reasons they are on that board is to protect, preserve, and enhance historic resources in the city and the last thing they want to do is approve a demolition.

Chapter 26 has provisions that outline how one can pursue a demolition and what the criteria are. HRB found the applicant met that criteria and the house was approved for demolition.

Staff proposes language that allows for the demolition and also addresses concerns. The amended conditions of approval have been submitted to Council which incorporates the original condition #1 expanded to address salvage procedures and a new condition #3, “TVF&R shall consult with SHPO and the City of West Linn to determine the appropriate mitigation for demolition of house at 1850 Buck Street. Once the letter of the agreement is signed the applicant will carry out the mitigation.

Over the course of many months, different representations of SHPO’s position were confusing. At the HRB meeting, individuals testified the position of SHPO did not allow this and the City was in violation of their regulations. Today staff contacted Kristie Kern, Acting Deputy of SHPO and she explained the procedures that TVF&R has in fact been in contact with SHPO through the Angelo Planning Group for some time now and they have come up with a way to mitigate the building being removed from that location. By moving the house to another site should satisfy their mitigation requirements. If it turns out the house cannot be moved, it has to be demolished, TVF&R and Angelo Planning Group have to go back to SHPO in negotiations and come back with another solution for mitigation such as establishing an interpretive program of historical sites, establishing a fund for the repair and maintenance of landmark structures, etc. The tools are in place and SHPO is aware of this particular case. They are sympathetic to both sides.

A photograph of the house was shown. The home was built in 1900; it is one of six or more historic landmark structures on Buck Street. There have been discussions of establishing this area for a historic district.

Councilor Burgess asked staff to comment on the decision of the Clackamas County Historical Review Board. Mr. Spir stated the application before the Clackamas County Historic Review Board was demolition or not and it was approved. They found that the applicant met the approval criteria for demolition.

Mayor Galle asked if any additional correspondence had been received other than those items included in the packet. Mr. Spir stated a letter was received from Charles Awalt.

### Applicant's Presentation

Gary Wells, Division Chief, Tualatin Valley Fire & Rescue, 20665 SW Lenton Street, Aloha stated he has been working on the replacement of Bolton Fire Station for a number of years. Over the last 12-18 months he has been before several board and commission in the City as they worked their way through the approval process for both the Willamette and Bolton Fire Stations.

It is with reluctance to ask Council to over-turn a decision made by one of these boards because they have worked with everyone of them to date. The District is close to being ready to go to bid with both the Willamette and Bolton Fire Stations. They hope to have contracts initiated and start construction this spring on both projects. However, the ability to sign a construction contract on the Bolton station depends on the ability to know that they can actually build on that site. Currently they are unsure if they will be able to demolish this house or move it.

The decision by the Historical Review Board, which approved the demolition, left the District in limbo. They can demo the house but in 120 days if the house has not be relocated, they will have to go back and confirm the demolition approval and start the process over.

Throughout the process they remained confident that the house will be moved. They have worked diligently with Sue Smith who has been trying hard to find a lot to place the house. The District has agreed to pay the relocation cost and recently they agreed to provide Sue with bridge financing if it would assist her in making a deal on a lot that would fit the house. They will continue to pursue the relocation opportunity until May 1<sup>st</sup> when there needs to be true resolution on the issue.

The District feels the decision reached by the HRB was defective. They are in complete agreement with the staff report and in complete agreement with Option A on the original staff report. They are willing to work extensively with SHPO, bring in the necessary historical consultants to try to come up with a mitigation plan that



meets everyone's needs. They need Condition #3 over-turned so they can move forward with the planning for the fire station. They will do everything they can to ideally relocate the house.

Councilor Kovash asked the applicant if he agreed with the new sheet of recommendations. Mr. Wells stated that the new list just adds detail to Option A, and most of these things will be done anyway.

**Councilor Burgess moved to extend the meeting to 10:20 p.m. Councilor Cummings seconded the motion.**

**Ayes: Kovash, Burgess, Cummings, Galle**

**Nays: None**

**The motion carried 4-0.**

Councilor Burgess asked where the District is in terms of LEED. Mr. Wells stated the bid documents are based on Leeds; they are designing both stations to meet LEED gold standards. Salvage and reuse of the existing materials will be a big part of their projects; it is a significant issue in the Leeds process. This is a key component on how they will de-construct all of the buildings including the Willamette Station.

Councilor Burgess asked if the list of recommendations will be included in the mitigation or if these are items that will be done by staff in addition to the mitigation plans. Mr. Wells stated he believes all of the recommendations will be part of any mitigation. SHPO mentioned opportunities for the local community to participate in salvage; provide a detailed inventory and give an opportunity on a priority basis (historic homeowners and local residents) to obtain the salvage items.

#### Testimony in Support

Alice Richmond, 3939 Parker Road asked if the safety of the City is more important than having a post-card historic house. She feels it is more important to have a fire station to meet the needs for fire emergencies than to save an older home. In another City this house would have been condemned because there can be no tenants. She asked Council to consider priorities.

#### Testimony in Opposition

Charles Awalt, 1847 5<sup>th</sup> Avenue stated that a letter was sent from The State Historic Preservation Office describing what the requirements were going to be. For the Historic Preservation Office decision to change, the applicant will have to go back for additional review. There are other mitigations than parting out the house, etc. The applicant can review how the damage to the structure has impacted the neighborhood and request surveys to get history of the area around the structure. This will help determine what has been lost in an area and what to give back to the area. Moving is one form of mitigation; however, if it is moved too far it is seen as a

demolition. It would be nice to have the house in an area where it can be seen for the historic value it has.

He has spent a lot of time talking to SHPO. They are an organization that helps you through a process; they are not judicial, legal and they are not very specific in what can be done. The TVF&R has to work very closely with SHPO on everything they do on the site. He has met with Historic Preservation several times and had discussions about this historic site; staff should have dealt with Historic Preservation in the beginning of the project instead of the end of the project.

Councilor Burgess asked Mr. Awalt to clarify his opposition to removal of the house. Mr. Awalt stated his opposition is in removing the timeline for the demolition permit or removing the “come back.” The TVF&R has been working pro-actively to find a way to move the house before it will have to be demolished. After 120 days the applicant is required to come back and get another extension. He is afraid that there will be extension after extension.

#### Applicant Rebuttal

Mr. Wells stated the District has been very aggressive and meeting with staff on a regular basis trying to figure out a lot where this house can be placed. Finding a lot to put this house on is not easily done; it may take two/three years. They have been working on this for the past 6 months; it depends on a willing seller and a property that works. These conditions are not under their control; they are not trying to wait the system out.

The problem with the wording of condition #3 is in 120 days if they go back, the answer may be different. The District needs some certainty on when they can get started on their construction. There is a process at SHPO to come up with a mitigation plan and they can start on that as an alternate route as part of the process. His goal, and the District’s, is to relocate the house if possible; it may not be.

#### Staff’s Final Comments

Mr. Spir stated the conditions talk about 120 days to complete removal of the structure. At the conclusion of that removal the applicant will have the opportunity to demolish the structure assuming SHPO was agreeable to the terms of mitigation. The Historic Review Board approval date was last November and that means the 120 days will lapse mid-March. If the same language is left in these conditions, the 120 days will run through June 20<sup>th</sup>. This may be an issue with starting construction.

Councilor Kovash asked if the 120 days in the current draft refers to the original approval. Mr. Spir states the 120 days from the decision date. It is not explicit enough. The language could be changed to say, “120 days from the original HRB decision;” however he feels a date around mid-April would be more appropriate.

Chris Jordan explained prior to TVF&R owning this site, it was City-owned. The City went through their surplus property procedures with a request for proposal to have the house moved as well and did not get any proposals. That change in ownership was in spring of last year.

Mayor Galle voiced concern that this has been going on for so long that extending the time would have not benefit to either party.

**Councilor Burgess moved to extend the meeting to 10:45 p.m. Councilor Cummings seconded the motion.**

**Ayes: Kovash, Burgess, Cummings, Galle**

**Nays: None**

**The motion carried 4-0.**

Hearing no further questions from Council and no further response from staff Mayor Galle closed the public testimony portion of the hearing.

**Councilor Burgess moved to affirm the Historic Review Board Demolition Permit Approval and amending the Condition of Approval to delete Condition #3 and to add a new #3, “TVF&R shall consult with SHPO and the City of West Linn to determine the appropriate mitigation for the demolition of the house at 1850 Buck Street. Once a letter of agreement is signed the applicant shall carry out the mitigation.” Councilor Cummings seconded the motion.**

Councilor Burgess stated the February 23<sup>rd</sup> document shows three conditions of approval from the Historic Review Board. He is recommending that condition #1 stay the same, #2 stay the same, remove #3 and replace with a new #3 as stated in the motion.

Mayor Galle suggested additional language in #1, Second Paragraph, “...after 120 days from the original HRB decision if the house has not been moved or no reasonable progress has been made.”

**Mayor Galle moved to amend the motion by adding language to Condition #1, Second Paragraph, (1), “If after 120 days from the original HRB decision the home has not been moved or no reasonable progress has been made.” The motion died without a second.**

Councilor Kovash stated he feels the language change is not necessary. They have an agreement that works. There was a member of the Commission that did not like part of the original condition of approval. This language, while somewhat repetitive, works for everyone.

**Councilor Kovash moved to amend the motion by adding language to Condition #1, Second Paragraph, (1), “...if after 120 days from the original HRB decision the house has not been moved or no reasonable progress has been made.” and delete the changes to Condition #3. Councilor Cummings seconded the motion.**

Mayor Galle voiced concern there should be a Preservation Officer on staff to help with decisions that include historic review. History is important to the City.

**Ayes: Kovash, Galle**

**Nays: Cummings, Burgess**

**The motion failed 2-2.**

**Vote on the main motion to affirm the Historic Review Board Demolition Permit Approval and amending the Condition of Approval to delete Condition #3 and to add a new #3, “TVF&R shall consult with SHPO and the City of West Linn to determine the appropriate mitigation for the demolition of the house at 1850 Buck Street. Once a letter of agreement is signed the applicant shall carry out the mitigation.”**

**Ayes: Burgess, Cummings, Galle**

**Nays: Kovash**

**The motion carried 3-1.**

**Councilor Burgess moved to affirm the Historic Review Board Demolition Permit Approval and amending the Condition of Approval #1, Second Paragraph, (1), “...from 120 days from November 20, 2008...”, leaving #2 as is, deleting #3, and adding a new #3, “TVF&R shall consult with SHPO and the City of West Linn to determine the appropriate mitigation for the demolition of the house at 1850 Buck Street. Once a letter of agreement is signed the applicant shall carry out the mitigation.” Councilor Cummings seconded the motion.**

**Ayes: Burgess, Cummings, Galle**

**Nays: Kovash**

**The motion carried 3-1.**

### **Adjournment**

Hearing no further business from Council, Council President Carson adjourned the meeting at 10:49 p.m.

RESPECTFULLY SUBMITTED,

**Tina Lynch /s/**

Tina Lynch

City Recorder

APPROVED BY THE CITY COUNCIL  
ON MARCH 23, 2009

**Patti Galle /s/**

Patti Galle, Mayor